

**REPORT OF THE AUDIT OF THE
FORMER TODD COUNTY
SHERIFF**

**For The Year Ended
December 31, 2009**



**CRIT LUALLEN
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EXECUTIVE SUMMARY

AUDIT EXAMINATION OF THE FORMER TODD COUNTY SHERIFF

**For The Year Ended
December 31, 2009**

The Auditor of Public Accounts has completed the former Todd County Sheriff's fee audit for the year ended December 31, 2009. Based upon the audit work performed, the financial statement presents fairly, in all material respects, the revenues, expenditures, and excess fees in conformity with the regulatory basis of accounting.

Financial Condition:

Excess fees increased by \$28,116 from the prior year, resulting in excess fees of \$12,065 as of December 31, 2009. Revenues increased by \$6,198 from the prior year and expenditures decreased by \$21,918.

Report Comments:

- 2009-01 The Former Sheriff's Office Lacked Adequate Segregation Of Duties
- 2009-02 The Former Sheriff Should Have Reported Wages And Paid Withholdings And Matching Timely
- 2009-03 The Former Sheriff Should Eliminate The \$11,769 Deficit In His 2009 Fee Account
- 2009-04 The Former Sheriff's Office Should Have Requested Budget Amendments From Fiscal Court
- 2009-05 The Former Sheriff's Salary Should Have Been Paid Monthly In Accordance With The Maximum Salary Authorization Set By The Kentucky Department For Local Government
- 2009-06 The Former Sheriff's Office Should Have Paid Invoices Within Thirty Working Days In Compliance With KRS 65.140

Deposits:

The former Sheriff's deposits as of December 10, 2009 were exposed to custodial credit risk as follows:

- Uncollateralized and Uninsured \$14,170

The former Sheriff's deposits were covered by FDIC insurance and a properly executed collateral security agreement, but the bank did not adequately collateralize the former Sheriff's deposits in accordance with the security agreement.

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CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Daryl Greenfield, Todd County Judge/Executive
The Honorable W. D. Stokes, Former Todd County Sheriff
Members of the Todd County Fiscal Court

Independent Auditor's Report

We have audited the accompanying statement of revenues, expenditures, and excess fees - regulatory basis of the former Sheriff of Todd County, Kentucky, for the year ended December 31, 2009. This financial statement is the responsibility of the former Sheriff. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for County Fee Officials issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the Sheriff's office prepares the financial statement on a regulatory basis of accounting that demonstrates compliance with the laws of Kentucky, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues, expenditures, and excess fees of the former Sheriff for the year ended December 31, 2009, in conformity with the regulatory basis of accounting described in Note 1.

Our audit was conducted for the purpose of forming and opinion on the financial statement. The schedule of excess of liabilities over assets - regulatory basis is presented for purposes of additional analysis and is not a required part of the financial statement. The schedule has been subjected to the auditing procedures applied in the audit of the financial statement and, in our opinion, is fairly stated in all material respects in relation to the financial statement taken as a whole.



The Honorable Daryl Greenfield, Todd County Judge/Executive
The Honorable W. D. Stokes, Former Todd County Sheriff
Members of the Todd County Fiscal Court

In accordance with Government Auditing Standards, we have also issued our report dated April 19, 2011 on our consideration of the former Todd County Sheriff's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.

Based on the results of our audit, we have presented the accompanying comments and recommendations, included herein, which discusses the following report comments:

- 2009-01 The Former Sheriff's Office Lacked Adequate Segregation Of Duties
- 2009-02 The Former Sheriff Should Have Reported Wages And Paid Withholdings And Matching Timely
- 2009-03 The Former Sheriff Should Eliminate The \$11,769 Deficit In His 2009 Fee Account
- 2009-04 The Former Sheriff's Office Should Have Requested Budget Amendments From Fiscal Court
- 2009-05 The Former Sheriff's Salary Should Have Been Paid Monthly In Accordance With The Maximum Salary Authorization Set By The Kentucky Department For Local Government
- 2009-06 The Former Sheriff's Office Should Have Paid Invoices Within Thirty Working Days In Compliance With KRS 65.140

This report is intended solely for the information and use of the former Sheriff and Fiscal Court of Todd County, Kentucky, and the Commonwealth of Kentucky and is not intended to be and should not be used by anyone other than these interested parties.

Respectfully submitted,



Crit Luallen
Auditor of Public Accounts

April 19, 2011

TODD COUNTY
W. D. STOKES, FORMER SHERIFF
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2009

Revenues

State - Kentucky Law Enforcement Foundation Program Fund (KLEFPF)	\$	2,971	
State Fees For Services:			
Finance and Administration Cabinet	\$	14,869	
Cabinet For Health And Family Services		250	
Sheriff Security Service		<u>13,400</u>	28,519
Circuit Court Clerk:			
Fines and Fees Collected			11,430
Fiscal Court			26,937
County Clerk - Delinquent Taxes			985
Commission On Taxes Collected			111,889
Fees Collected For Services:			
Auto Inspections		4,925	
Accident and Police Reports		45	
Serving Papers		21,890	
Carrying Concealed Deadly Weapon Permits		3,099	
10% Add On Fee and Advertising Fees		20,692	
Reimbursement for Transports		574	
Telecommunications Tax		755	
Miscellaneous		<u>667</u>	52,647
Interest Earned:			
Fee Account		113	
Tax Account		<u>770</u>	<u>883</u>
Total Revenues			236,261

The accompanying notes are an integral part of this financial statement.

TODD COUNTY
W. D. STOKES, FORMER SHERIFF
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
For The Year Ended December 31, 2009
(Continued)

Expenditures

Operating Expenditures and Capital Outlay:

Personnel Services-

Deputies' Salaries	\$ 18,561
Bailiffs	27,233
Other Salaries	22,066
Kentucky Law Enforcement Foundation Program Fund	2,067

Employee Benefits-

Employer's Share Social Security	11,556
Employer's Share Retirement	20,429
Medical Bridge	222
Employer Paid Health Insurance	5,398

Contracted Services-

Accounting - Payroll	2,415
Vehicle Maintenance and Repairs	5,582
Unemployment	7,219

Materials and Supplies-

Office Materials and Supplies	1,801
Uniforms	2,202

Auto Expense-

Gasoline	10,147
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Other Charges-

Training	2,336
Postage	149
Property Tax Postage	2,981
Communications	1,285
Bond	330
Miscellaneous	191
Internal Revenue Service Penalties And Interest	4,747
Fiscal Court Portion Serving Papers	4,250

Capital Outlay-

Office Equipment	<u>999</u>
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The accompanying notes are an integral part of this financial statement.

TODD COUNTY
W. D. STOKES, FORMER SHERIFF
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
For The Year Ended December 31, 2009
(Continued)

Expenditures (Continued)

Total Expenditures		\$ 154,166
Less: Disallowed Expenditures		
Internal Revenue Service Penalties And Interest	\$ 4,747	
State Penalty	<u>194</u>	
Total Disallowed Expenditures		<u>4,941</u>
Total Allowable Expenditures		<u>149,225</u>
Net Revenues		87,036
Less:		
Statutory Maximum	72,325	
Training Incentive Benefit	<u>2,646</u>	<u>74,971</u>
Excess Fees Due County for 2009		12,065
Payment to Fiscal Court - September 1, 2010	102	
Payment to Fiscal Court - October 28, 2010	<u>194</u>	<u>296</u>
Balance Due Fiscal Court		<u>\$ 11,769</u>

The accompanying notes are an integral part of this financial statement.

TODD COUNTY
NOTES TO FINANCIAL STATEMENT

December 31, 2009

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of revenues over expenditures to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the Sheriff as determined by the audit. KRS 134.310 requires the Sheriff to settle excess fees with the fiscal court at the time he files his final settlement with the fiscal court.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. Under this regulatory basis of accounting revenues and expenditures are generally recognized when cash is received or disbursed with the exception of accrual of the following items (not all-inclusive) at December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2009 services
- Reimbursements for 2009 activities
- Tax commissions due from December tax collections
- Payments due other governmental entities for payroll
- Payments due vendors for goods or services provided in 2009

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the County Treasurer in the subsequent year.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the Sheriff's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

TODD COUNTY
 NOTES TO FINANCIAL STATEMENT
 December 31, 2009
 (Continued)

Note 2. Employee Retirement System

The county official and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a cost sharing, multiple employer defined benefit pension plan, which covers all eligible full-time employees and provides for retirement, disability and death benefits to plan members. Benefit contributions and provisions are established by statute.

Nonhazardous covered employees are required to contribute 5 percent of their salary to the plan. Nonhazardous covered employees who begin participation on or after September 1, 2008 are required to contribute 6 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 13.50 percent for the first six months and 16.16 percent for the last six months.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65. Nonhazardous employees who begin participation on or after September 1, 2008 must meet the rule of 87 (members age plus years of service credit must equal 87, and the member must be a minimum of 57 years of age) or the member is age 65, with a minimum of 60 months service credit.

Historical trend information showing the CERS' progress in accumulating sufficient assets to pay benefits when due is presented in the Kentucky Retirement Systems' annual financial report. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, KY 40601-6124, or by telephone at (502) 564-4646.

Note 3. Deposits

The former Todd County Sheriff maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the former Sheriff and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the Sheriff's deposits may not be returned. The former Todd County Sheriff did not have a deposit policy for custodial credit risk but rather followed the requirements of KRS 41.240(4). As of December 31, 2009, all deposits were covered by FDIC insurance or a properly executed collateral security agreement. However, as of December 10, 2009, public funds were exposed to custodial credit risk because the bank did not adequately collateralize the former Sheriff's deposits in accordance with the security agreement.

- Uncollateralized and Uninsured \$14,170

TODD COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2009
(Continued)

Note 4. Drug Fund

The former Sheriff's office maintained a drug fund for drug related receipts and expenditures. These funds are to be used for drug enforcement and drug education. The balance of the fund as of January 1, 2009 was \$2. The drug fund had receipts of \$2,646 and expenditures of \$2,648 for calendar year 2009, resulting in an ending balance of \$0 as of December 31, 2009.

Note 5. Donation Fund

The former Sheriff's office maintained a donation fund for funds received as gifts or donations. The balance of the donation fund as of January 1, 2009 was \$6,000. During calendar year 2009, gifts or donations of \$600 were received by the former Sheriff's office and expenditures of \$6,012, including IRS penalties and interest of \$1,871 were expended. As of December 31, 2009, the donation fund had a balance of \$588.

Note 6. Deficit Schedule and Prior Year Deficit

In the prior year, the former Sheriff had expenditures in excess of revenues in the amount of \$16,051. This mainly resulted from payroll liabilities incurred but not paid and an overpayment of 2008 tax commissions. In 2009, the former Sheriff paid \$6,828 of this 2008 deficit from the 2009 fee account. In addition, \$4,941 was paid for federal and state penalties and interest on 2008 and 2009 payroll, resulting in a 2009 deficit of \$11,769. The prior year deficit is now \$2,113 as \$6,828 was eliminated with 2009 fees (now included in 2009 deficit and due as part of excess fees to the fiscal court) and the overpayment of 2008 tax commissions was paid by the fiscal court.

OTHER SUPPLEMENTARY INFORMATION

TODD COUNTY
W. D. STOKES, FORMER SHERIFF
SCHEDULE OF EXCESS OF LIABILITIES OVER ASSETS – REGULATORY BASIS

December 31, 2009

Assets

Cash in Bank	\$ 44,550
Deposits in Transit	265
Collected Receivables	<u>23,255</u>
Total Assets	<u>68,070</u>

Liabilities

Paid Obligations:

Outstanding Checks	\$ 55,685
Outstanding Liabilities	<u>12,385</u>
Total Paid Obligations	68,070

Unpaid Obligations:

Todd County - Additional Excess Fees - 2010	<u>11,769</u>
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Total Unpaid Obligations	<u>11,769</u>
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Total Liabilities	<u>79,839</u>
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Total Fund Deficit as of December 31, 2009	<u><u>\$ (11,769)</u></u>
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The accompanying notes are an integral part of this financial statement.

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REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS



CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Daryl Greenfield, Todd County Judge/Executive
The Honorable W. D. Stokes, Former Todd County Sheriff
Members of the Todd County Fiscal Court

Report On Internal Control Over Financial Reporting
And On Compliance And Other Matters Based On An Audit Of Financial
Statements Performed In Accordance With Government Auditing Standards

We have audited the statement of revenues, expenditures, and excess fees - regulatory basis of the former Todd County Sheriff for the year ended December 31, 2009, and have issued our report thereon dated April 19, 2011. The former Sheriff's financial statement is prepared in accordance with a basis of accounting other than generally accepted accounting principles. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the former Todd County Sheriff's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the former Sheriff's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the former Sheriff's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses and therefore, there can be no assurance that all deficiencies, significant deficiencies, or material weaknesses have been identified. However, as described in the accompanying comments and recommendations, we identified a certain deficiency in internal control over financial reporting that we consider to be a material weakness.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. We consider the deficiency described in the accompanying comments and recommendations as item 2009-01 to be a material.



Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards
(Continued)

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the former Todd County Sheriff's financial statement for the year ended December 31, 2009, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under Government Auditing Standards and which are described in the accompanying comments and recommendations as items 2009-02, 2009-03, 2009-04, 2009-05, and 2009-06.

This report is intended solely for the information and use of management, the Todd County Fiscal Court, and the Department for Local Government and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Crit Luallen", with a long horizontal flourish extending to the right.

Crit Luallen
Auditor of Public Accounts

April 19, 2011

COMMENTS AND RECOMMENDATIONS

TODD COUNTY
W. D. STOKES, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS

For The Year Ended December 31, 2009

INTERNAL CONTROL - MATERIAL WEAKNESS:

2009-01 The Former Sheriff's Office Lacked Adequate Segregation Of Duties

A segregation of duties over various accounting functions, such as opening mail, recording cash, preparing bank deposits, writing checks, posting transactions to ledgers, reconciling bank records to the ledgers and preparing monthly reports or the implementation of compensating controls, when needed because the number of staff is limited, is essential for providing protection from asset misappropriation and/or inaccurate financial reporting. Additionally, proper segregation of duties protects employees in the normal course of performing their daily responsibilities.

The former Sheriff's office lacked adequate segregation of duties over receipts, expenditures, and reconciliations. The former Sheriff collected payments from customers, prepared deposits, wrote checks, posted transactions to the ledgers, prepared monthly bank reconciliations, and prepared monthly and quarterly financial reports. Oversight of these activities was not documented.

Limited budget and limited resources places restrictions on the number of employees the sheriff can hire. When faced with a limited number of staff, strong compensating controls should be in place to offset the lack of segregation of duties. Lack of oversight could result in misappropriation of assets and/or inaccurate financial reporting to external agencies such as the Department for Local Government, which could occur but go undetected.

Adequate segregation of duties would prevent the same person from having a significant role in the processing, recording, reporting, and reconciling of receipts and expenditures. The former Sheriff should have delegated some of his responsibilities in order to achieve an adequate segregation of duties.

Former Sheriff's Response: No Response.

TODD COUNTY
 W. D. STOKES, FORMER SHERIFF
 COMMENTS AND RECOMMENDATIONS
 For The Year Ended December 31, 2009
 (Continued)

FEDERAL/STATE LAWS AND REGULATIONS:

2009-02 The Former Sheriff's Office Should Have Reported Wages And Paid Withholdings And Matching Timely

The former Sheriff's office should have reported wages and paid the withholdings and matching amounts timely to the County Employees Retirement System, the Internal Revenue Service, the Kentucky Department of Revenue, Todd County Occupational Tax Administrator, City of Elkton, and Kentucky Public Employees' Deferred Compensation Authority. The former Sheriff's office should have reported wages even when funds were not available to make the payments. During calendar year 2009, withholdings and matching were not paid timely due to cash flow problems.

a) Retirement

KRS 78.610(2) requires employees of a participating county to contribute 5% of his or her compensation to the County Employees Retirement System (CERS). The former Sheriff reported retirement wages and withholdings to the Todd County Treasurer. He also paid employee retirement withholdings and employer matching to the County Treasurer. The County Treasurer then reported and paid retirement to CERS. KRS 78.625(1) requires the County Treasurer to report amounts for the previous month to CERS by the tenth day of each month. Retirement information was not reported and paid in a timely manner to the County Treasurer for the months of July through December in calendar year 2009. As of December 31, 2009, the Todd County Sheriff's office did not owe the County Treasurer for retirement withholdings and employer's share of retirement. The former Sheriff should have reported and paid retirement wages, withholdings, and matching to the County Treasurer by the tenth of each month.

b) Federal

26 USCA § 3402 states that "...every employer making payments of wages shall deduct and withhold upon such wages..." federal income taxes. In addition, 26 USCA § 3102 requires every employer to withhold FICA from wages. Every employer is required by federal law to file each quarter an Employer's Quarterly Federal Tax Return with the Internal Revenue Service (IRS). This return should include total wages for all employees, income tax withheld from all wages, and FICA withheld. Payments are required monthly and returns are required to be filed by the end of the month following the end of the quarter. Employer's Quarterly Federal Tax Returns were not filed timely for the first, second, third, and fourth quarters of calendar year 2009. In addition, the former Sheriff did not make federal deposits monthly as required by federal law. As of December 31, 2009, the Todd County Sheriff's office did not owe the IRS for federal withholdings, FICA withholdings, and employer's share of FICA. The former Sheriff should have properly reported all wages, employee withholdings, and employer matching to the IRS on the Employer's Quarterly Tax Returns by the end of the month following the end of the quarter. Also, the former Sheriff should have made federal deposits on a monthly basis to avoid paying penalty and interest charges totaling \$1,171 for calendar year 2009. In addition, the former Sheriff paid \$3,576 in penalties and interest charges for the prior year and \$1,871 in penalties and interest from the Donation Account for the prior year.

TODD COUNTY
 W. D. STOKES, FORMER SHERIFF
 COMMENTS AND RECOMMENDATIONS
 For The Year Ended December 31, 2009
 (Continued)

FEDERAL/STATE LAWS AND REGULATIONS (Continued):

2009-02 The Former Sheriff's Office Should Have Reported Wages And Paid Withholdings And Matching Timely (Continued)

c) State

KRS 141.310(1) states that "... every employer making payment of wages on or after January 1, 1971, shall deduct and withhold upon the wages..." state income taxes. KRS 141.330(1) requires every employer to file a return and pay state income tax withheld for each quarter to the Kentucky Department of Revenue (Revenue) on or before the last day of the month following the close of each quarterly period. This return should include total wages for all employees and Kentucky income tax withheld. Returns were not filed timely with Revenue for the first, second, third, and fourth quarters of calendar year 2009. The former Sheriff's office made all payments to Revenue, but did not make the payments in a timely manner. The former Sheriff should have reported all wages and paid all state withholdings on a timely basis to avoid paying penalty and interest charges of \$194.

d) Todd County Occupational Tax

Todd County Ordinance 02-07 requires a one percent occupational tax be withheld on wages. The employer is to file a return and pay the occupational tax withheld for each quarter to the Todd County Occupational Tax Administrator (Tax Administrator) on or before the twentieth day of the month following the close of each quarterly period. The return should include total wages for all employees and the occupational tax withheld. The former Sheriff's office filed returns with the Tax Administrator during calendar year 2009. The former Sheriff's office made all payments to the Tax Administrator, but did not make the payments for the third and fourth quarters in a timely manner. The former Sheriff should have reported all wages and paid all occupational tax withheld to the Tax Administrator on a timely basis.

e) City of Elkton Occupational License Fee

City of Elkton ordinances require employers to withhold one and half percent occupational license fee on wages. The employer is to file a return and pay the occupational license fees withheld for each quarter to the City of Elkton on or before the last day of the month following the close of each quarterly period. The return should include total wages for all employees and the occupational license fees withheld. The former Sheriff's office filed returns with the City of Elkton during calendar year 2009. The former Sheriff's office made all payments to City of Elkton, but did not make the payments for the third and fourth quarters in a timely manner. The former Sheriff should have reported all wages and paid all occupational license fees withheld to City of Elkton on a timely basis.

f) Deferred Compensation

Todd County participates in deferred compensation with the Kentucky Public Employees' Deferred Compensation Authority (Authority). Three employees of the former Sheriff's office chose to participate in deferred compensation. The Authority sent requests for payment to the former Sheriff's office for each pay period.

TODD COUNTY
 W. D. STOKES, FORMER SHERIFF
 COMMENTS AND RECOMMENDATIONS
 For The Year Ended December 31, 2009
 (Continued)

FEDERAL/STATE LAWS AND REGULATIONS (Continued):

2009-02 The Former Sheriff's Office Should Have Reported Wages And Paid Withholdings And Matching Timely (Continued)

f) Deferred Compensation (Continued)

The former Sheriff's office made all payments to the Authority for calendar year 2009, but did not pay the requests for payment in a timely manner. The former Sheriff should have paid all deferred compensation withholdings to the Authority on a timely basis.

Former Sheriff's Response: No Response.

2009-03 The Former Sheriff Should Eliminate The \$11,769 Deficit In His 2009 Fee Account

The former Sheriff has a deficit of \$11,769 in his official account as of December 31, 2009. This deficit is due to disallowed expenditures. Test procedures revealed \$11,769 in expenditures not considered allowable expenses of a Sheriff's office. In Funk v. Milliken, 317 S. W. 2d 499 (Ky.1958), Kentucky's highest court ruled that county fee official's expenditures of public funds will be allowed only if they are necessary, adequately documented, reasonable in amount, beneficial to the public, and not primarily personal in nature. Additionally, amounts due for prior years should not be paid from the current fee account. Expenditures from the former Sheriff's 2009 fee account not considered allowable:

- \$4,747 for payments to Internal Revenue Service for penalties and interest because the payments were not necessary in compliance with Funk v. Milliken. See comment 2009-02 b).
- \$194 for payments to Kentucky Department of Revenue for penalties and interest because the payments were not necessary in compliance with Funk v. Milliken. See comment 2009-02 c).
- \$6,828 for payments to Internal Revenue Service for the balance due for employer's quarterly federal tax returns for calendar year 2008 has been disallowed because it is an amount due for the prior year and should not have been paid from the current fee account. This amount is not included as a disbursement on the 2009 financial statement.

In addition, the former Sheriff's office spent funds of \$1,871 from the donation account for payments to Internal Revenue Service for penalties and interest. These expenditures are also not considered allowable because the payments were not beneficial to the public in accordance with Funk v. Milliken.

The former Sheriff's office should have only expended fees of the office for allowable expenditures. We recommend the former Sheriff eliminate his deficit by paying personal funds of \$11,769 to the fiscal court and deposit personal funds of \$1,871 to the current Sheriff's donation account.

Former Sheriff's Response: No Response.

TODD COUNTY
W. D. STOKES, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2009
(Continued)

FEDERAL/STATE LAWS AND REGULATIONS (Continued):

2009-04 The Former Sheriff's Office Should Have Requested Budget Amendments From Fiscal Court

KRS 64.530(3) states the Fiscal Court may fix the maximum amount that the Sheriff may expend each year for the expenses of his office. According to the interpretation of this statute in Funk v. Milliken, Ky., 317 S.W.2d499, 507 (1958), "the fiscal court may fix, in advance, the categories of reasonable official expense that will be allowed and the maximum amount that will be allowed in each category." In addition, KRS 68.210 provides the Kentucky State Local Finance Officer (SLFO) with the authority to implement accounting practices for local government officers. In the County Budget Preparation and State Local Finance Officer Policy Manual issued by the Kentucky Department for Local Government, the SLFO requires the Fiscal Court to approve the calendar year budget for the Sheriff's office by January 15 of each year." On January 9, 2009, the Todd County Fiscal Court voted "to approve the 2nd reading of the Sheriff's line by line CY2009 budget" and "to approve on order 09-03 the Sheriff's maximum expenditure as noted in the CY2009 budget." Order 09-03 sets the maximum amount allowed per category for expenses of the Sheriff's office for calendar year 2009. This order does not include payroll items. The maximum amount for payroll items was set with Order 09-04. During our audit, we noted eight expenditure categories exceeded budgeted amounts for calendar year 2009. The former Sheriff's office did not request budget amendments from the Todd County Fiscal Court as categories exceeded budgeted amounts or new categories were created. The former Sheriff's office should have established procedures to monitor budgeted to actual and to request budget amendments when categories exceed budgeted amounts or new categories were created.

Former Sheriff's Response: No Response.

2009-05 The Former Sheriff's Salary Should Have Been Paid Monthly In Accordance With The Maximum Salary Authorization Set By The Kentucky Department For Local Government

KRS 64.5275 states the Sheriff shall receive an annual salary pursuant to the salary schedule set by the Kentucky Department for Local Government (DLG). The maximum salary set for the Todd County Sheriff in calendar year 2009 was \$72,324. KRS 64.535 states that 1/12 of this salary shall be received monthly. Payroll records indicate the former Sheriff did not receive 1/12 of his salary monthly during calendar year 2009. He did not receive a paycheck on time during the months of July through December 2009. Instead, the former Sheriff received paychecks for these months during other months. The former Sheriff should have ensured that he received 1/12 of his required salary monthly.

Former Sheriff's Response: No Response.

TODD COUNTY
W. D. STOKES, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2009
(Continued)

FEDERAL/STATE LAWS AND REGULATIONS (Continued):

2009-06 The Former Sheriff's Office Should Have Paid Invoices Within Thirty Working Days In Compliance With KRS 65.140

KRS 65.140 states that "unless the purchaser and vendor contract, all bills for goods and services shall be paid within thirty (30) working days of receipts of vendor's invoice except when payment is delayed because the purchaser has made a written disapproval of improper invoicing by the vendor or by the vendor's subcontractor." During testing of expenditures, we noted that five of thirteen bills tested were not paid by the due date of the invoice. The former Sheriff's office should have paid all bills by the due dates of the invoices.

Former Sheriff's Response: No Response.

